

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:12-CR-208-D

UNITED STATES OF AMERICA	)	
	)	
v.	)	<b>ORDER</b>
	)	
DAVID ELLIS,	)	
	)	
Defendant.	)	

On February 27, 2013, at the request of the United States Attorney, the clerk issued a subpoena to Harnett Health Systems (“Harnett”), a healthcare provider, to appear with all records pertaining to Tobonda McQueen for the period of October 1, 2010, to July 1, 2012. On June 25, 2013, the court received correspondence from Harnett expressing concern that the subpoena conflicted with its obligations under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”).

The court has reviewed the applicable regulations and concludes that the subpoena is not sufficient for Harnett to comply with its HIPAA obligations. See 45 C.F.R. § 164.512(e) (2012); see United States v. Elliott, 676 F. Supp. 2d 431, 436–38 (D. Md. 2009). The regulation governing disclosures of protected health information for judicial and administrative proceedings requires a court order, signed authorization of the patient, or a subpoena along with satisfactory assurances that the patient has been given notice and an opportunity to object or that reasonable efforts have been made to secure a qualified protective order. See 45 C.F.R. § 164.512(e). The court directs the United States Attorney to show that the government has obtained signed authorization or such assurances or, in the alternative, to submit a brief to support an order from this court ordering the

release of the records.

SO ORDERED. This 14 day of July 2013.

  
JAMES C. DEVER III  
Chief United States District Judge